

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Diana Vale	Team: Squad #6	CCRB Case #: 201707000	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 07/14/2017 8:33 PM	Location of Incident: § 87(2)(b)	Precinct: 76	18 Mo. SOL 1/14/2019	EO SOL 1/14/2019	
Date/Time CV Reported Fri, 08/18/2017 7:59 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/24/2017 4:21 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Haitham Hussameldin	04514	930383	076 PCT
2. Officers			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Arony Youssef	13975	962181	076 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Haitham Hussameldin	Abuse: Sergeant Haitham Hussameldin questioned § 87(2)(b)	§ 87(2)(b)
B.SGT Haitham Hussameldin	Discourtesy: Sergeant Haitham Hussameldin spoke discourteously to § 87(2)(b)	§ 87(2)(b)
C.SGT Haitham Hussameldin	Discourtesy: Sergeant Haitham Hussameldin spoke discourteously to § 87(2)(b)	§ 87(2)(b)
D.SGT Haitham Hussameldin	Force: Sergeant Haitham Hussameldin used physical force against § 87(2)(b)	§ 87(2)(b)
E. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)

### Case Summary

On August 18, 2017, § 87(2)(b) filed this complaint with the Internal Affairs Bureau (IAB) via telephone on behalf of herself, § 87(2)(b) and § 87(2)(b). On August 24, 2017, the Civilian Complaint Review Board (CCRB) received this complaint under IAB original log #17-31925.

On July 14, 2017, at approximately 8:15 p.m., § 87(2)(b) sat on a chair in the front yard of § 87(2)(b) in Brooklyn, while eating peanuts out of a plastic cup. Sgt. Haitham Hussameldin and PO Arony Youssef of the 76<sup>th</sup> Precinct drove down Dwight Street and stopped their police vehicle in front of the location. The officers exited their vehicle and approached § 87(2)(b) while standing on the sidewalk. § 87(2)(b) called out to § 87(2)(b) who came outside to the front yard with § 87(2)(b). Sgt. Hussameldin questioned § 87(2)(b) about prior arrests, any open warrants, or past felonies that he had (**Allegation A**). Sgt. Hussameldin then asked § 87(2)(b) to provide his identification. § 87(2)(b) interjected and told § 87(2)(b) not to provide his identification while § 87(2)(b) also interjected and told the officers that they were violating § 87(2)(b)'s rights. Sgt. Hussameldin responded to § 87(2)(b) and § 87(2)(b) that they should “mind their fucking business” (**Allegations B and C**). Sgt. Hussameldin attempted to enter into the front yard. § 87(2)(b) stood at the entryway of the front yard and prevented Sgt. Hussameldin from entering inside while verbally stating that he was not permitted to enter. Sgt. Hussameldin then used his bodyweight and upper chest to push § 87(2)(b) pinning her to the front yard fence causing her pain to her back and a twisted ankle (**Allegation D**) while also telling her to “shut the fuck up and get out of the way” (**within Allegation B**). Sgt. Hussameldin requested over the radio for additional officers to the location.

A few minutes later, officers from the 76<sup>th</sup> Precinct and PSA1 arrived to the location. Officers attempted to escort § 87(2)(b) out of the front yard towards the sidewalk. § 87(2)(b) stood in front of § 87(2)(b) and prevented the officers from moving § 87(2)(b). Several officers punched § 87(2)(b) multiple times on his lower right back area causing him pain to his back (**Allegation E**). § 87(2)(b) complied and moved to the side so the officers could escort § 87(2)(b) to the sidewalk. § 87(2)(b) was issued § 87(2)(b) (BR 01). No other civilian involved received a summons and no one was arrested for this incident.

### Video Footage

No video footage was obtained for this incident. § 87(2)(b) stated that § 87(2)(b)'s friend § 87(2)(b) may have recorded the incident on his cellphone. § 87(2)(b) stated that he had recorded the incident on his cell phone. However, his cell phone was not working and so he was unable to retrieve the video footage. § 87(2)(b) stated that he had no contact information for his friend § 87(2)(b) and he did not know if § 87(2)(b) had recorded the incident.

### Mediation, Civil and Criminal Histories

- This case was not eligible for mediation as IAB was conducting a concurrent investigation into misconduct allegations.
- A FOIL request for a Notice of Claim filed by § 87(2)(b) and § 87(2)(b) was submitted with the NYC Comptroller's Office and will be added to the case file upon receipt.

- § 87(2)(b); §§ 86(1)(3)(4); § 87(2)(c)

### **Civilian and Officer CCRB Histories**

- § 87(2)(b)
- § 87(2)(b) has no prior CCRB complaints.
- Sgt. Hussameldin has been a member of the NYPD for 15 years and has four allegations in four cases with no substantiated allegations (see officer history).

### **Potential Issues**

- The investigation was unable to obtain a verified statement from § 87(2)(b) regarding this incident. On August 29, 2017, § 87(2)(b) was contacted and he confirmed his contact information. He provided a phone statement and scheduled a CCRB interview for August 30, 2017 (BR 05). On August 30, 2017, § 87(2)(b) failed to appear at the CCRB for his scheduled interview and was sent a missed appointment letter which was not returned by the U.S. Postal Service. On August 31, 2017, § 87(2)(b) was contacted and a voicemail message was left. On September 14, 2017, § 87(2)(b) was contacted and he rescheduled his CCRB interview for September 18, 2017. § 87(2)(b) failed to appear at the CCRB on September 18, 2017, for his scheduled interview and was sent a missed appointment letter which was not returned by the U.S. Postal Service. On September 21, 2017, and September 25, 2017, § 87(2)(b) was contacted and voicemail messages were left on each occasion. On October 11, 2017, § 87(2)(b)'s friend "§ 87(2)(b)" answered § 87(2)(b)'s phone and took down a message for § 87(2)(b). A NYC Department of Corrections search revealed that § 87(2)(b) was not incarcerated. Therefore, the investigation was unable to obtain a verified statement from § 87(2)(b).

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

§ 87(2)(b) identified the officer who pushed her as Sgt. Hussameldin. She asked Sgt. Hussameldin and PO Youssef to provide their names and shield numbers to her which she wrote down on a white envelope. During her IAB intake call, § 87(2)(b) provided Sgt. Hussameldin's name and shield #4514 to the IAB intake officer and alleged that he pushed her (BR 04). During her phone statement, § 87(2)(b) stated that the officer who pushed her identified himself as a sergeant to her (BR 05). During her CCRB interview, § 87(2)(b) provided the white envelope where she had noted the officers' information and she stated that Sgt. Hussameldin was the officer who pushed and cursed at her while trying to gain entry into the front yard (BR 06 – 07). § 87(2)(b) described the officer who punched § 87(2)(b) as a white male in uniform from one of the responding units. § 87(2)(b) went to her primary care doctor a few days after the incident for the pain to her ankle and back. Her doctor associated the pain to her back as being related to her multiple sclerosis condition, and therefore, did not prepare any paperwork for § 87(2)(b) pertaining to this incident.

§ 87(2)(b) identified Sgt. Hussameldin as the officer who questioned § 87(2)(b) about his prior arrest history, any open warrants, and past felonies, as well as being the officer who spoke discourteously to both him and § 87(2)(b) (BR 08 – 10). Sgt. Hussameldin identified himself as a sergeant to § 87(2)(b) during the incident. § 87(2)(b) provided the description of a white male in uniform with red hair from one of the responding units as the officer who pushed § 87(2)(b). § 87(2)(b) stated that he felt approximately 4 – 5 different hands punching him at the same time. However, aside from being officers from the responding units, § 87(2)(b) did not know which officers punched him because he was not facing the officers. § 87(2)(b) refused to sign HIPAA forms to obtain his medical records for this incident.

§ 87(2)(b) stated that Sgt. Hussameldin, who identified himself as a sergeant to him, was the officer who pushed § 87(2)(b). He described the officer who punched § 87(2)(b) as a black male in uniform from one of the responding units (BR 05). However, his description differed from § 87(2)(b) and he failed to provide a sworn statement to the CCRB.

Sgt. Hussameldin and PO Youssef both stated that Sgt. Hussameldin was the primary contact officer who spoke with § 87(2)(b) during the initial interaction (BR 11 – 12). Neither officer recognized what additional officers responded to the incident aside from identifying them as officers from the 76<sup>th</sup> Precinct and PSA1. Sgt. Hussameldin and PO Youssef did not see any responding officers punch § 87(2)(b) and they both denied taking this action.

Events #17071421799 for this incident indicated that sectors 76D2-3, 76LT1, 76ST2-3, and P1RES6-3 responded to the location (BR 13). TRI Report #2017-076-000060 for § 87(2)(b) was prepared by Sgt. Hussameldin (BR 14).

§ 87(2)(b) and § 87(2)(b) both stated that Sgt. Hussameldin was the officer who pushed § 87(2)(b). Although § 87(2)(b) described a different officer who pushed § 87(2)(b), the investigation credits § 87(2)(b) as she was the victim of the force allegation. The TRI Report prepared for the alleged use of force against § 87(2)(b) was prepared by Sgt. Hussameldin. Based off these circumstances, Allegations A – D have been pleaded against Sgt. Hussameldin.

Given that several officers from the 76<sup>th</sup> Precinct and PSA1 responded to the location, the fact that § 87(2)(b) did not see which officers punched him, and that § 87(2)(b) and § 87(2)(b) both provided vague and different descriptions for the subject officer(s), the investigation could not identify which officers punched § 87(2)(b). Therefore, Allegation E is pleaded against “officers” from an unknown command.

#### **Allegations not pleaded**

- **Entry:** § 87(2)(b) alleged that Sgt. Hussameldin and PO Youssef had no right to enter into the front yard of 19A Dwight Street. The front yard was public space as it was a front yard of an apartment complex that contained multiple dwellings. The front yard was public space since it was accessible to the public (BR 16) and was not § 87(2)(b)'s private property. The officers were permitted to enter the front yard to speak with § 87(2)(b) after observing him drinking in a public space. Therefore, an entry is not pleaded.

#### **Allegation A – Abuse of Authority: Sergeant Haitham Hussameldin questioned § 87(2)(b)**

As previously explained, although § 87(2)(b) had initially provided a phone statement, the investigation was unable to obtain a verified statement for the incident after exhausting

contact attempts to obtain a statement from him. § 87(2)(b) failed to appear at the CCRB for two scheduled interviews and he has not contacted the CCRB in response to the various calls placed and letters sent to him. Although § 87(2)(b) stated that he was present during the time that Sgt. Hussameldin questioned § 87(2)(b) he acknowledged to not being present for the initial conversation between § 87(2)(b) and Sgt. Hussameldin. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation B – Force: Sergeant Haitham Hussameldin used physical force against § 87(2)(b)**

**Allegation C – Discourtesy: Sergeant Haitham Hussameldin spoke discourteously to § 87(2)(b)**

**Allegation D – Discourtesy: Sergeant Haitham Hussameldin spoke discourteously to § 87(2)(b)**

§ 87(2)(b) stated that when she heard § 87(2)(b) call out to her she went outside to the front yard and saw Sgt. Hussameldin and PO Youssef speaking to § 87(2)(b) (BR 04 – 07). She then stood in front of the front yard fence to prevent Sgt. Hussameldin from entering the front yard while verbally telling him that he could not enter. During her initial phone statement, § 87(2)(b) alleged that Sgt. Hussameldin placed his hand on her chest while shoving her backwards and telling her to “shut the fuck up.” During her CCRB interview, § 87(2)(b) stated that she called 911 to report this incident. As she was on the phone, Sgt. Hussameldin used his upper chest and body weight to allegedly push § 87(2)(b) near her neck and collar bone area causing her to move backward and pinning her back to the front yard fence while telling her to “shut the fuck up” and get out of the way. As § 87(2)(b) was leaning backwards, she screamed to get the attention of any neighboring civilians. At this time, § 87(2)(b) along with other civilians exited the building. Upon seeing the crowd of individuals, Sgt. Hussameldin released his hold of § 87(2)(b). § 87(2)(b) remained on the phone with 911 until later on in the incident when she left a voicemail message for IAB complaining about the incident.

§ 87(2)(b) stated that both he and § 87(2)(b) arrived to the front yard at the same time in response to § 87(2)(b)'s call for § 87(2)(b) to come outside (BR 08 – 10). Sgt. Hussameldin entered into the front yard, walked past where § 87(2)(b) and § 87(2)(b) were standing, and went towards § 87(2)(b). Sgt. Hussameldin requested that § 87(2)(b) provide his identification. § 87(2)(b) interjected by telling § 87(2)(b) not to provide it and § 87(2)(b) also interjected by telling Sgt. Hussameldin that he was violating § 87(2)(b)'s rights because he had not committed a crime. Sgt. Hussameldin responded that § 87(2)(b) and § 87(2)(b) should mind their “fucking” business. Sgt. Hussameldin instructed § 87(2)(b) to go to the sidewalk and § 87(2)(b) did not comply. Sgt. Hussameldin radioed in for additional units and several officers arrived to the location. One of the officers who responded to the location pushed § 87(2)(b) pinning her to the fence while telling her to “get the fuck out of the way.”

§ 87(2)(b) provided a testimony consistent with § 87(2)(b) and stated that Sgt. Hussameldin pushed § 87(2)(b) to gain entry to the front yard (BR 05). He made no allegations that any discourtesy was used by the officers.

Sgt. Hussameldin denied pushing § 87(2)(b) and stated that he had no physical interaction with her throughout the incident (BR 11). He denied using any profanity towards § 87(2)(b) and § 87(2)(b) and denied using the expletive “fuck” while addressing them.

PO Youssef provided a testimony consistent with Sgt. Hussameldin (BR 12). He did not observe Sgt. Hussameldin push § 87(2)(b) and he did not hear Sgt. Hussameldin use any profanity towards any civilians on scene.

TRI Report #2017-076-000060 for § 87(2)(b) indicated that no force was used against § 87(2)(b) who was suspected of alcohol intoxication and drug use at the time of this incident.

The 911 Communications CD for Events #§ 87(2)(b) indicated that § 87(2)(b) called 911 to report that officers were entering her front yard and harassing § 87(2)(b) for allegedly drinking (BR 15). § 87(2)(b) yelled at Sgt. Hussameldin multiple times that he could not enter into the front yard and that he could not touch and arrest § 87(2)(b). § 87(2)(b) made no mention to the 911 operator that Sgt. Hussameldin had pushed her during her 911 phone call and no officer was heard using any profanity against any of the civilians.

It remains disputed whether Sgt. Hussameldin pushed § 87(2)(b). As previously mentioned, although § 87(2)(b) identified a different subject officer for the alleged push, the investigation credits § 87(2)(b) as she was the victim of the allegation. § 87(2)(b) acknowledged preventing Sgt. Hussameldin from entering the yard by standing at the entrance while verbally telling him that he was not permitted to enter. Both § 87(2)(b) and § 87(2)(b) were consistent that Sgt. Hussameldin used some level of force against § 87(2)(b) to try to gain entry to the front yard. However, § 87(2)(b) was inconsistent with the force used by Sgt. Hussameldin. Initially, she alleged that Sgt. Hussameldin placed his arm on her chest and shoved her. She later stated that Sgt. Hussameldin used his upper chest and body weight to push her backwards pinning her to the fence. § 87(2)(b) provided a statement consistent with this level of force. However, he identified a different officer who took this action at a later time in the incident and not when § 87(2)(b) alleged that it had occurred. The TRI Report prepared for § 87(2)(b) indicated that no force was used against her and that § 87(2)(b) may have been intoxicated or had used drugs prior to this incident. As per the audio for § 87(2)(b)'s 911 phone call, she made no allegation to the operator that any force was used against her. Both Sgt. Hussameldin and PO Youssef were consistent that Sgt. Hussameldin did not use any force against § 87(2)(b). Based on the various testimonies provided by all individuals interviewed and documents obtained for this incident, the investigation could not determine whether any level of force was used by Sgt. Hussameldin against § 87(2)(b) to gain entry into the front yard.

It remains disputed whether Sgt. Hussameldin spoke discourteously to § 87(2)(b) and § 87(2)(b). § 87(2)(b) was consistent that Sgt. Hussameldin told her to “shut the fuck up” as he tried to gain entry into the front yard. However, § 87(2)(b) stated that an officer from a responding unit told § 87(2)(b) to get the “fuck” out of way as he tried to gain entry into the front yard. § 87(2)(g)

§ 87(2)(g). Sgt. Hussameldin denied using the expletive “fuck” while speaking to § 87(2)(b) and § 87(2)(b). PO Youssef did not hear Sgt. Hussameldin use any profanity throughout the incident.

§ 87(2)(g)

**Allegation E – Force: Officers used physical force against § 87(2)(b)**

As previously explained, the investigation was unable to identify the officers who punched § 87(2)(b). During his phone statement, § 87(2)(b) stated that there were approximately ten officers standing behind him and that he was punched on his lower back roughly 5 – 8 times. However, since he had his back to the officers he did not know if it was one officer or multiple officers who had punched him (BR 08). During his CCRB interview, § 87(2)(b) stated that several officers stood behind him and that he felt 4 – 5 different sized hands punching him on his back. However, § 87(2)(b) could not see the officers who punched him (BR 09 – 10). § 87(2)(b) stated that he had pain to his back for which he sought out medical attention. However, he refused to sign a HIPAA form to obtain his medical documents. § 87(2)(b) alleged that a single black male officer from one of the responding units punched § 87(2)(b) (BR 05). During her phone statement, § 87(2)(b) alleged that a white male officer from one of the responding units punched § 87(2)(b) and that she was unable to provide a further description because this officer had his back to § 87(2)(b) (BR 05). During her CCRB interview, § 87(2)(b) restated that a white male officer punched § 87(2)(b) and added that this officer punched § 87(2)(b) six times (BR 06). Sgt. Hussameldin and PO Youssef did not see any officer punch § 87(2)(b) and they both denied taking this action (BR 11 – 12). § 87(2)(g)

Squad: 6

Investigator:	_____	Diana Vale	_____
	Signature	Print	Date
Squad Leader:	_____	Jessica Peña	_____
	Title/Signature	Print	Date
Reviewer:	_____		_____
	Title/Signature	Print	Date